

# Pennsylvania Credit Union League & Pacul Services, Inc.



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12/22/97

December 16, 1997

Ms. Cynthia L. Johnson, Director  
Cash Management Policy and Planning Division  
Financial Management Service  
U.S. Department of the Treasury  
Room 420, 401 14<sup>th</sup> Street, SW  
Washington, DC 20227

## **RE: TREASURY'S EBT PROPOSAL**

Dear Ms. Johnson:

The Pennsylvania Credit Union League is a statewide trade association that represents nearly 900 credit unions. On behalf of our member credit unions, this letter responds to the U.S. Treasury's request for comments on a proposed rule governing the electronic transfer of federal payments.

### **Proposed 208.2 - "Authorized Payment Agents"**

Proposed section 208.2(b) defines the term "authorized payment agent". The overriding issue appears to be a desire to find reliable intermediaries to act on behalf of individuals who are entitled to a federal payment.

Accordingly, authorized payment agents should be limited to federally insured financial institutions. Federally insured financial institutions are heavily regulated and supervised. As such a recipient of federal payments can find redress in the event an electronic benefits transfer occurs erroneously. Also, a financial institution offers the benefit of insured deposits which safeguard the recipient's money.

To successfully reach unbanked recipients, the electronic benefits transfer program must provide efficient access to the payments system. Federally insured financial institutions have a long history in providing safe access to the payments system through ACH networks and wire services. With the guiding hand of the Federal Reserve, financial institutions have contributed to the creation of the most reliable payments system in the world. In the analysis of the proposal, Treasury notes that it cannot deliver electronic payments except through financial institutions. Therefore, to safeguard recipients' funds, and assure reliable access to the payments system, the definition of "authorized payment agent" should be limited to federally insured financial institutions.

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**Proposed 208.5 - Access to Account**

Proposed section 208.5 states that Treasury will provide an individual who does not own a deposit account access to an account at a federally insured financial institution selected by Treasury. The analysis states that Treasury will obtain such account services through a competitive process that will select entities to serve as a "financial agent". The financial agent will disburse public funds, hold the recipient's account, and credit Federal payments to the account.

Treasury's discussion of the competitive process is vague. It offers no details on how an institution could participate in the competitive process. Nor does it describe the criteria an institution must meet to be designated as a financial agent. This is a material component of the electronic benefit transfer program that should be addressed in the regulation.

Treasury estimates that 10 million individuals who receive federal payments do not own an account with a financial institution. One may infer that the overall goal is to reach these individuals as efficiently as possible. Therefore, the selection process should be open to all financial institutions that are interested in participating. Further, any federally insured financial institution that can meet the following criteria should qualify as a financial agent:

- The financial institution offers or demonstrates the ability to offer electronic funds transfer services; and
- The financial institution serves or can serve a geographic area where it can reach unbanked recipients.

Financial institutions will need to know when the bid process opens and what geographic regions require service. Accordingly, Treasury should publish notice when the bid process opens. Also, the notice should identify geographic areas that need service.

**Proposed 208.5 - Account Terms and Costs**

In the analysis of Section 208.5, Treasury solicited comment on possible account features. Treasury appears to be attempting to balance the cost of deposit account services with providing a functional account to recipients.

The appropriate balance between available services and costs can be reached by permitting financial institutions to offer a debit card-based account according to the terms and conditions offered by the financial institution for a similar account. In so doing, Treasury would pave the way for the widest variety of services to be made available for recipients. Recipients can obtain the services they desire at a reasonable cost by comparison shopping. If the cost of debit or bill payment services is too high at institution X, an individual can select Y. Satisfying the reasonable cost considerations is an incentive for Treasury to allow as many financial agents as possible.

Permitting financial institutions to establish account terms and prices offers the same level of consumer protection as if Treasury set minimum terms. Consumers will enjoy the protections offered by Truth-in-Savings and the Electronic Funds Transfer Act.

Credit unions are uniquely situated to provide the desired account access at reasonable cost. As non-profit, financial cooperatives, credit unions primary mission is providing a lower cost alternative than other financial intermediaries. Conduct market research in any part of the United States and the results will show that credit unions offer attractive retail deposit accounts at fees lower than their for-profit competitors. In short, if Treasury selects credit unions as financial agents and permits them to offer accounts on the same terms available to any other member, the goal of servicing the "unbanked" will be realized.

### **ATM Surcharging**

The Treasury should prohibit one particularly odious practice: ATM surcharging. ATM surcharging is a practice in which a financial institution charges a non-customer for the use of its machine. For example, a recipient may select institution X for account services but may need to use an ATM owned by institution Y. Institution Y may charge the recipient a fee for using its machine. Surcharges in the U.S. currently range between \$1 and \$2.

No consumer should pay an ATM surcharge. Consumers pay for access to the payments system through fees paid to their own institution. However, a surcharge will be acutely burdensome to benefits recipients. Therefore, the Treasury should prohibit ATM owners and ATM networks from levying a surcharge against a benefits recipient.

We appreciate the opportunity to comment on this proposal.

Sincerely,



Richard T. Wargo, Esq.  
Director, Compliance and Information

RTW:brn

cc: Regulatory Review Committee  
Legislative Committee  
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